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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,503	04/11/2001	Thomas E. Benim	DP6945 US NA	2453
23906	7590	08/25/2004	EXAMINER	
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			RHEE, JANE J	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/832,503	Applicant(s) BENIM ET AL.	
	Examiner Jane Rhee	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-8,11,18-32,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,11,18-32,34 and 350 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/3/2004 has been entered.

Rejections Withdrawn

2. The 35 U.S.C. 102(b) rejection anticipated by Tollette of claims 1,2,4,6,7,8,10,11,18,19,21-23,27,28,31,32 has been withdrawn due to applicant's amendment in response 6/3/2004.
3. The 35 U.S.C. 103(a) rejection over Tollette in view of Keiser of claims 3,9 has been withdrawn due to applicant's amendment in response 6/3/2004.
4. The 35 U.S.C. 103(a) rejection over Tollette in view of Yamada et al. of claim 20 has been withdrawn due to applicant's amendment in response 6/3/2004.
5. The 35 U.S.C. 103(a) rejection over Tollette in view of McFall et al. of claims 25-26,29-30 has been withdrawn due to applicant's amendment in response 6/3/2004.

New Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4,6-11,18-19,21-23,27-28,31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tollette in view of Keiser (5851617).

Tollette discloses an insulating label stock comprising a thermal insulating layer (figure 1 number 22) having a thermal resistance in the range of 0.05 to 0.5 CLO (0.0077 to 0.077 m²K/W) (see calculations below) laminated to a face material (figure 2 number 18) to form the insulating label stock having a thickness in the range of 0.00025-.025 inches which is at least 0.0075 inch (0.190 cm) (col. 2 lines 65-67) as claimed by applicant.

Polypropylene-

Thermal conductivity value C= 0.12 W/mK (taken from applicant's argument of May 14,2003 page 1 number 1).

$$1/32 \text{ inches (col. line 56)} = 0.0007937\text{m}$$

$$1/0.12\text{W/mK} = 8.33\text{mK/W}$$

$$8.33\text{mK/W} \cdot 0.0007937\text{m} = 0.0198\text{m}^2\text{K/W}$$

Thermal resistance value of insulating layer polypropylene is 0.0198m²K/W.

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Tollette discloses that the face material comprises paper (figure 2 number 18) or thermoplastic film comprising polyester, polyethylene or polypropylene (figure 2 number 12 col. 3 lines 8-15). Tollette discloses that the thermal insulating layer is laminated to at least one sheet of coextruded film comprising a first layer, and a second layer where the first layer and the second layer are made of different materials, and the second layer has a lower melting temperature than the material of the first layer (col. 3 lines 10-15). Tollette discloses that the insulating label stock comprises a printable coating on the face material (figure 2 number 16). Tollette discloses that the face material is modified on the surface facing away for the thermal insulating layer to facilitate printing thereon (figure 2 number 18 and 16). Tollette discloses that the face material is modified on the surface facing away for the thermal insulating layer to facilitate bonding to another surface with adhesive (figure 2 number 18 and 14). Tollette discloses that the thermal insulating layer comprises foam (figure 2 number 22). Tollette discloses that the label stock has a thickness in the range of 0.00025-0.25inches (col. 2 lines 66-67), which is in the range of applicant's claimed range of 0.01 inch to 0.04inch. Tollette discloses an adhesive primer applied to the surface of the face material facing away from the thermal insulating layer (figure 2 number 14). Tollette discloses that the face material comprises a first layer and a second layer wherein the second layer is disposed between the thermal insulating layer and the first layer (figure 2 number 12 col. 3 lines 10-14). Tollette discloses another face material disposed on the side of the thermal insulating layer facing away from the thermal insulating layer (figure 2 number 28). Tollette discloses

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that the thermal insulating layer is laminated between two sheets of face material (figure 2 number 22, 18, 28) wherein the label has a top edge (figure 3 number 63) a lower bottom edge (figure 3 bottom of label), and a side edge disposed at each side between the top and bottom edge (figure 3 number 64), and two sheets of face material are sealed together along the top, bottom and side edges (figure 5 number 42, 52).

Tollette fail to disclose that the thermal insulating layer comprises a fiberfill batt comprising thermoplastic fibers comprising polyester, polyethylene or polypropylene. Kieser teaches a substrate comprising of thermoplastic fibers (col. 3 lines 62) or foam (col. 3 line 62) for the purpose of creating a label stock.

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Tollette with a fiberfill batt comprising thermoplastic fibers such as polyester, polyethylene, and polypropylene in order to create a label stock.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tollette in view of Yamada et al. (6306492).

Tollette discloses the label stock described above. Tollette disclose that the face material comprises a thermoplastic film comprising polyester, polyethylene or polypropylene (figure 2 number 12 col. 3 lines 8-15). Tollette fail to disclose that the face material comprises a biaxially oriented polyester film. Yamada et al. teaches label comprising a biaxially oriented polyester film for the purpose of providing superior mechanical strength, heat resistance, chemical resistance and dimensional stability (col. 1 line 15, 26-28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Tollette with a face material comprises a biaxially oriented polyester film in order to obtain superior mechanical strength, heat resistance, chemical resistance and dimensional stability as taught by Yamada et al. (col. 1 line 15, 26-28).

8. Claims 25-26,29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tollette in view of McFall et al. (6479431).

Tollette discloses the label stock described above. Tollette discloses another face material disposed on the side of the thermal insulating layer facing away from the thermal insulating layer (figure 2 number 28). Tollette fail to disclose a second sheet of coextruded film, wherein the second sheet of coextruded film comprises a first layer and a second layer. Tollette fails to disclose that the coextruded film of the first layer and of the second layer is a biaxially oriented polyester film.

McFall et al. teaches a second coextruded film comprising a first layer and a second layer for the purpose of adding strength and /or dimensional stability to the liner (col. 9 lines 45-47). McFall et al. teaches that the coextruded film of the first layer and of the second layer is a biaxially oriented polyester film (col. 4 lines 20-24) for the purpose of adding strength and /or dimensional stability to the liner (col. 4 lines 43).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Tollette with teaches a second coextruded film comprising a first layer and a second layer and that the

coextruded film of the first layer and of the second layer is a biaxially oriented polyester film in order to add strength and /or dimensional stability to the substrate (col. 4 lines 43) as taught by McFall et al.

9. Claim 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tollette in view of McFall et al. (6479431).

Tollette discloses the label stock described above. Tollette fail to disclose that the first sheet and the second sheet is a biaxially oriented polyester film. McFall teaches the film of the first and of the second sheet is a biaxially oriented polyester film (col. 4 lines 20-24) for the purpose of adding strength and/or dimensional stability to the substrate (col. 4 line 43).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Tollette with the film of the first sheet and of the second sheet is a biaxially oriented polyester film in order to add strength and/or dimensional stability to the substrate (col. 4 line 43).

Response to Arguments

10. Applicant's arguments filed 6/3/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the edges of the label described in Tollette are unsealed and therefore permeable to fluids, in figure 5 numbers 42 and 52 illustrates that the label is sealed at the edges and furthermore in col. 8 lines 9-11, Tollette describes that the film is laminated to the foam wherein the underside of the paper is secured to the foam and the *surrounding* film is secured

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to the foam, therefore all edges of the label are sealed and not permeable to fluids.

Applicant argues that Keiser fail to disclose that metallized films, metallized paper, and metal foils are equivalent of foams and sheets formed of synthetic staple fibers and furthermore fail to disclose that foams are equivalent to sheets formed of synthetic staple fibers. However, Keiser teaches that the substrate can be made from an array of materials such as polymer films, polymer foams, sheets formed of synthetic staple fibers and/or filaments, and the like; cellulosic substrates, such as paper substrates, woven, knit, netted or non woven fabric substrates formed of natural fibers and/or filaments and the like..etc. Keiser further teaches that the substrate can be made form films including metallized films and paper substrates including metallized paper, however never taught that the substrate had to be made from a conductive material. Keiser listed a variety of materials wherein the substrate can be made from wherein foam and fibers were among the listed materials, therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Tollette with a substrate comprising foam or thermoplastic fibers for the purpose of creating a label stock.

Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the claimed invention is rendered obvious over the prior art of record discussed above.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
August ~~16~~₂₃, 2004


NASSER AHMAD
PRIMARY EXAMINER 8/23/04